

Special and Regular Town Commission Meeting of the Town of Ocean Ridge held on Thursday, September 6, 2005 at 5:01 PM in the Town Hall Meeting Chambers

The meeting was called to order by Mayor Kaleel and roll call was answered by the following:

Commissioner Allison
Commissioner Bingham

Commissioner Hogan
Mayor Kaleel

Commissioner Pugh was absent with notice.

Pledge of Allegiance

Public Hearing

Presentation of Tentative Budget and Proposed Millage Rate for Fiscal Year 2005-2006

Town Clerk Hancsak explained the changes to the budget which included an additional \$5,000 to the Building Permit Revenue and \$5,000 to the Interest Revenue accounts. Law Enforcement Dept. will be reduced \$41,000 by postponing the purchase of software until next fiscal year. There is also a change in the Environment Dept., Urban Design Studios will be reduced from \$65,000 to \$45,000. That will bring the Total Expenditures from \$4,747,852 to \$4,686,852. Keeping the proposed millage at 4.75, decreases the amount used to balance the budget from \$337,945 to \$256,945.

- a. Adoption of Tentative Budget for Fiscal Year 2005-2006

Comm Hogan moved that a budget in the amount of \$4,686,852 be tentatively adopted for the 2005-2006 Operating Fund, seconded by Comm Bingham.

Motion carried - yea 4.

- b. Comment by Commissioners and Public

Comm. Hogan commented that with all the capital expenditures that are dependent upon grants and other monies that are not in our hand yet, she would rather keep the budget conservative this year.

Comm. Bingham agreed, hoped that this budget would have a surplus, and then cut back next year.

George Breyer, 7 Coconut Lane noticed that the problem of the drainage for Coconut Lane is in the budget, but no real monies were on hand yet. Confirmed by Mayor Kaleel that the monies were pending.

c. Adoption of Tentative Millage Rate for Fiscal Year 2005-2006

Comm Bingham moved that a millage of \$4.7500 per \$1,000 of assessed valuation be tentatively adopted for the 2005-2006 general operating revenue, seconded by Comm Hogan.

Motion carried - yea 4

d. Public Comment

Jeff Willens, 9 Hudson stated that his personal proposed tax bill showed city taxes up 15.4%, and asked why the millage is going up to cover the increase when property values have risen significantly. He requested that the millage rate not be increased.

Comm Allison assured him that the budget does not have excessive expenditure hidden in it. She mentioned how sophisticated and technical issues have become in small towns, and with that comes the high cost of dealing with these issues.

James Bonfiglio, 5616 North Ocean Blvd, read an emotional and stirring statement of the horrific results left behind in Louisiana and Mississippi by Hurricane Katrina. He then requested that a resolution be passed that the Town of Ocean Ridge send \$25,000 toward the Emergency Relief Fund or Red Cross. Mayor Kaleel thanked him for this statement, and advised it would be added to the regular agenda.

Justis Brown, 39 Coconut Lane, suggested that if each town resident was required to maintain their own backyards, and that this would lower the budget costs.

Mayor Kaleel stated that we are speaking of millage at this time and that he would defer that to the regular agenda.

d. Mayor Kaleel announced that the computed millage rate exceeds the rolled back rate by 23.81%.

e. Mayor Kaleel announced that the final public hearing is scheduled for 5:01 PM on Tuesday, Sept. 13, 2005.

Regular Meeting

ADDITIONS, DELETIONS, MODIFICATIONS, AND APPROVAL OF AGENDA

Mayor Kaleel request to add Hurricane Katrina as Item #15

Comm Bingham requested to pull Item #3 from consent and make it #16, she also requested to add 2 more items: #17 security signs, #18 Ocean Avenue.

Town Manager Mathis requested to add #5a., ratifying the execution of the Memorandum of Agreement for Landscape Services with FDOT.

Attorney Spillas also requested to add to #11 a letter from attorney, Richard Levenstein, regarding the clearing of the right-of-ways.

Consent Agenda

1. Minutes of Regular Town Commission Meeting of Aug.8, 2005.
2. Minutes of Joint Town Commission/P & Z Meeting of Aug.8, 2005
4. Authorize Unpaid Leave of Absence from Oct.3 through Oct.31, 2004 for the Town Manager.

Comm Allison moved to approve the consent agenda as amended, seconded by Comm Bingham.

Motion carried - yea 4.

Public Comment

George Bierlin, 26 Hudson Ave., felt that even after heavy rains, the streets were clear. He thanked SFRN for their solution to Hudson Ave.

Joe Belmonte, 5572 NOB, stated that the beaches have become very dirty. Even with the regular scheduled beach clean-ups, he hears several complaints about our beaches. He requested that trash cans be located on the beach side. Town Manager Mathis said the problem with having garbage cans on the beach side is difficulty in retrieving them but he would check into it.

Sandra Morrison, 2 Coconut Lane, complained about the heavy flooding in the rear of her property with the recent rains. She hopes the Town can find a solution to the flooding problems on Coconut Lane.

Comm Allison said that Betty Ackerly complained this morning about the flooding and Town Manager Mathis had it pumped out already taking care of the problem.

5. Town Manager

Town Manager Mathis stated that there was heavy flooding on Tropical this morning. The pump was not working, and he rented an additional 3” pump to take care of the high waters.

- 5.a. Ratification of the Memorandum of Agreement for Landscape Maintenance with FDOT

Town Manager Mathis summarized his memo stating that Town change regarding 45 days was unacceptable. He advised that since the last meeting he and a P&Z member located 2 additional areas in the south end for plantage, contacted FDOT and got

approval for an additional \$2000. The agreements were signed because deadline was today and he was requesting that the execution be ratified.

Comm Bingham commented that the prices that FDOT charge is outrageous, and as a small town, we have no control. As citizens, at the next election, we should let our senators/congressmen know our disgust, and have them change the power of FDOT.

Comm Hogan moved to ratify the Execution of the Memorandum of Agreement for Landscape Services with FDOT, seconded by Comm Allison.

Motion Carried - yea 4.

6. Town Attorney

6a. Definition of Residential Uses. Atty Spillias advised he reviewed the definition for the residential use for rentals and leasing in the Land Development Code (LDC). He wants to add two terms – one for defining transient housing units and one for vacation rental units. He would also like to review allowable uses prohibiting transient housing units and vacation rentals, limiting one’s ability to rent/lease their properties in the LDC. He would like to defer to P&Z to discuss/analyze it, and then give recommendations.

Comm Bingham motioned to defer the residential use of rentals/leasing to P&Z and come back with recommendations, seconded by Comm Hogan.

Motion Carried - yea 4.

Comm Hogan commented that as a member of the Board of Realtors & Govt. Affairs a similar matter is being reviewed in the City of Lake Worth. Lake Worth is considering short term rentals. She will keep Ocean Ridge up-to-date with the results of the decision.

Comm Bingham was concerned with the effect caused by allowing rental/leasing in our community.

Atty. Spillias stated that since this was being referred to P&Z, we will let them evaluate all of these issues and come back with their recommendation.

6b. Request for Executive Session Meeting ER: Case No. 2003 CA010524 Heith ext. vs Town (Deferred to Item #11)

7. Director of Public Safety

Lieutenant Katz was present and advised he had no reports. Mayor Kaleel thanked the Police Dept. for their efforts during Hurricane Katrina even though they were short-staffed with people on vacations.

8. Town Engineer

Action Items

9. Presentation of Coconut Lane Drainage Improvement Alternatives

Dan Shalloway gave a presentation with 4 alternative solutions. He recommended that no immediate decision be made tonight, until a special meeting could be called or until the next agenda. His presentation included a drawing showing the elevation levels of the road and homes on Coconut Lane. It showed that 5 homes were currently below the FEMA recommended levels of 7ft. Ocean Ridge's required level is now 8 ft.

Alternative #1 or the "Hudson Alternative"

Build the road up higher to prevent flooding. Five homes would have to be raised or knocked down. This could be done through individual people, grants, loans, tax incentives or even the condemning of homes and then rebuilding them per code. This would give a 10 year level of protection. It would also make the street comfortable like Hudson Avenue. However if you only raised the streets, then the low homes would be trapped under water during heavy rains or storms.

Cost Range: \$600,000 - \$950,000 (excluding the cost related directly to the affected homes).

Alternative #2

Regrade the swale system & driveways. This won't give a 10 year level of protection. Landscape must be removed/relocated.

Cost Range: \$350,000 - \$500,000 without drain well
\$900,000 - \$1,4 mil. with drain well

Alternative #3

- 1) Shave high points off road
- 2) Replacing swales only where needed
- 3) Replacing driveways only where needed

Cost Range: \$150,000 - \$350,000 without drain well
\$900,000 - \$1.2 mil. with drain well

Alternative #4

Regrading only the swales and areas where there are real problems.

Cost Range: \$75,000 - \$200,000 without drain well
\$900,000 - \$1.1 mil. with drain well

Comm Bingham said that she believed that the north side generally does not flood. She questioned if the swales were improved would the water still only drain with low tide.

Dan Shalloway stated that with high tides, it wouldn't work unless there was a drainage well and with so many low homes in the area, it's hard to pinpoint the exact cause of the flooding. They could plan a special workshop if needed.

Bonnie Sternberg, 50 Coconut Lane stated that she lives on the north side of coconut Lane with no flooding during the last hurricane.

Justis Brown, 15 year resident of 31 Coconut Lane, stated that the existing plug is adequate and he does not think it's necessary to spend monies on building up the road. He does believe though, that if people cleaned up their swales, then the water would drain to the end.

Terry Cudmore, 5 Coconut Lane requested that the road be built up, and then raise the lower homes up to FEMA standards. His property floods in heavy rains.

George Breyer, 4 Coconut Lane stated that: 1) It's not the North/South side of the street but the East/West side that causes flooding. There is a hump in the middle of the road, and water accumulates at 5 Coconut and at the cul-de-sac. 2) Right of ways has nothing to do with the drainage problem. It does need regrading though. 3) Hurricane relief donations should be done on an individual level, not out of our taxes. 4) We should consider sewer utility. It would greatly improve the quality of town and property values. He stated that Turtle Beach has sewer grates – where do they flow?

Dan Shalloway stated that Turtle Beach is at a higher elevation, and it flows into the intercoastal and it is their own system.

George Breyer, 4 Coconut Lane, requested that the Town make their area a pilot program similar to Turtle Beach. They have almost the same number of homes and it is also close to the intracoastal. He did not want to see any of his neighbors relocated but did not feel it was fair to leave a dangerous situation. He requested that a short term fix be done now, that would fall in line with the current budget, until grants or other monies come through for a more permanent fix.

Sandra Morrison, 2 Coconut Lane, wanted a plan to include both the front/back of the properties.

Mayor Kaleel stated that the special workshop would cover all areas. They would try to solve the problem to the best of their ability.

The consensus was to schedule a workshop meeting to discuss this item further.

10. Discuss Updated Revision List Regarding the Evaluation Appraisal Report (EAR) by Urban Design Studios

Town Manager Mathis stated that the cost has been brought down to \$44,000 for the consultant services by UDS to update the Comprehensive Plan in the new budget year. He requested that they review Issues 1-5 on the EAR report that was distributed with this agenda, and get back to him with any additions or changes within the next week.

11. Authorize Zimmerman Tree Service to clear Rights-of-Way Between Coconut Lane and Ocean Ave.

6b. Request for Executive Session Meeting

Atty Spillias requested an executive session within the next few weeks regarding the potential litigation and settlement costs of Heith vs. Ocean Ridge. He had received a request from counsel for the homeowners, Richard Levenstein. They asked the town to refrain action of clearing the right-of-ways or they may take legal action to prevent us from moving forward. The Town's notice to him did give the 60 day termination notice, however nothing prevents the Town from moving forward. He added that with this being an active storm season, a decision must be made as soon as possible.

A consensus was to schedule the executive session for September 13th, 2005 at 5:15pm with Town Commissioners, Town Manager, Town Attorney and trial counsel attending.

Town Manager Mathis reminded that last month was declared emergency as far as having the right-of-ways cleared. The notice gave property owners until August 30th, to comply, not all have complied as of this date. Zimmerman Tree Service needs time to respond, and the cost is \$7000-\$9000. FPL says they will not go back there until the right-of-ways are clear.

Comm Bingham stated that in the last storm 4 transformers blew within 15 minutes. She added it was a mild storm, and she was without power for 2-1/2 days.

George Breyer, 4 Coconut Lane, stated that his new home has a retaining wall to prevent water draining into his neighbor's property and other properties have fences that deny FPL access.

Dave Steinfeld, with Richard Levenstein, thanked the Commission for scheduling an executive session. He requested a delay of any action until after the executive session. He also requested that the Town provide them with updates as to actions taken, and is hopeful that this will be worked out.

Comm Bingham was concerned that if Zimmerman is postponed, and a hurricane comes causing a loss of power, who would be responsible for any costs.

Mayor Kaleel advised he respected the request, but the Town has to protect the residents. He added this affects the welfare of our entire community and anyone should consider themselves on notice tonight to clear the ROW's, adding the residents had the opportunity to comply in their own manner.

Dave Steinfeld stated that the notice was unclear as action needed and requested more time to resolve the matter.

Town Manager Mathis advised that Zimmerman could complete the minimal work in approximately 5 days.

Atty Spillias stated that even if a decision is made by Tuesday, and final resolution will not be immediate.

Mayor Kaleel asked if we could take action on a minimal level, enough to satisfy FPL and allow them access to which Town Manager Mathis stated that they could probably get around some of the trees. Mr. Mathis added that Zimmerman could start on the west end and see how far they could proceed. He also stated that there were several fences blocking access and FPL could not get the bucket trucks back there.

Atty Spillias reminded that the FPL emergency was two-fold. 1) Impact that vegetation may have on lines. 2) Post Storm – after outages, access will be needed to the lines for restoration. On the last storms the trucks could not get back, and they walked back to the lines.

Kim Willens, 9 Hudson Avenue, stated that even though there have been several outages in her 9 year here, she has not seen any FPL problems in restoring or them having access.

Bruce Gimmy, 12 Ocean Avenue, stated that the transformer behind his house is usually the last one to be repaired. It takes 4-6 men with ladders and pulleys because of lack of access. The one time they tried a bucket truck, it sank and took 2 tow trucks to remove it.

George Breyer, 4 Coconut Lane, stated that his neighbor has a fence blocking the right-of-way and blocking access for the next 6 homes. He said it was appalling him that litigation is stalling proper access for FPL.

Comm Bingham moved to have Zimmerman Tree Service proceed at minimal intrusion and that the Town Manager approve the methods to protect the health and safety welfare of the residents with the costs not to exceed \$10,000. Comm Hogan seconded the motion.

Motion carried - yea 4.

12. Approve and Execute Contract with Digby, Bridge, Marsh & Assoc.

Town Manager Mathis stated that the attorney was given a copy of the contract for review. He stated that he previously negotiated a contract for Phase 1 (\$5000) and for Phase 2 (\$10,000) and this portion was for the construction drawings not to exceed \$195,000.

Mark Marsh, Digby Bridges, Marsh & Assoc., stated that the pertinent information was on Page 13 that defined the proposal. The fee is not exceed \$195,000 and a list of the allocation of funds. They would be the primary consultant. He added that the site survey is not included and also permit fees are not included. From the date of having the

construction contract awarded, it would take 12-14 months to complete. Their fees are usually 7% of construction cost. The entire project should cost \$2.7 – \$3.0 million but they would need to provide a more accurate estimate once a breakdown is completed. He said their estimates are usually within 5% of actual.

Comm Allison moved to approve the contract with Digby Bridges, Marsh & Assoc. in an amount not to exceed \$195,000 funded from the Town Hall Renovation Reserve Account. Comm Hogan seconded the motion.

Motion Carried - yea 4.

RESOLUTIONS

13. Ocean Ridge Resolution No. 2005-18; Approving and Authorizing Executing an Interlocal Agreement Between Palm Beach Count (PBCty) and the Town of Ocean Ridge Which Identifies the Conditions of use, Cost of Access and On-going Use, and the Ability of the town to Participate in the Operational Decisions Relating to the 800 MGZ System and Replaces the Previous Agreement in its Entirety.

Comm Hogan moved to approve Resolution No 2005-18, Comm Allison seconded.

Motion Carried - yea 4.

FIRST READING OF ORDINANCES

14. Ordinance No.558; Amending the Code of Ordinances at Chapter 64, Article III, Section 64-44(e), to Establish Where Chainlink Fences are and are not Permitted Within the Town

Town Manager Mathis mentioned that at the August 1st, P&Z meeting they recommended to allow chainlink fence along the side setbacks, provided they are located beyond the front yard (or double frontage) setback.

Comm Bingham motioned to approve Ordinance No.558 regarding chainlink fences on first reading. Comm. Hogan seconded the motion.

Jerry MaGruder, 9 Ridge Blvd, apologized for not attending the P&Z meeting and spoke in favor of using chainlink fence with hedges in front. She stated walls retain water, whereas chainlink fences allows for drainage and she would like us to rethink the usage of hard walls.

Don Magruder, 9 Ridge Blvd, would like to see chainlink fences approved for fronts with hedges or vegetation in front. He said drainage was not such a problem before the new homes were built with walls.

Mayor Kaleel requested that an addendum be made that all chain link fence have coating on it.

Atty Spillias stated that a requirement for vinyl coating can be added. He also wanted to clarify that chainlink can be in the rear, but not if a property is double frontage by waterway or roads.

Justis Brown, 39 Coconut, stated that the City of Boynton has chain link fences for all of their lift systems. They add colored vinyl strips inserted into the chain link fence to make them more attractive than a brick wall.

Comm Bingham requested to amend her motion to include that chainlink fences are permitted also in the rear of the properties, but not if the property is double frontage, also that chainlink fences be vinyl coated. Seconded again by Comm Hogan.

Motion Carried – yea 4.

16. Security Signs

Comm Bingham would like this matter to go before the P&Z, as some properties have 3 of them, and the signs need to be addressed as to where they are allowed.

There was a consensus to direct P & Z to review this item.

17. Discuss Ocean Avenue Landscaping

Comm Bingham commented that the Commission had approved a few residents to go on a fact-finding mission regarding Ocean Avenue landscaping and they would like to appear at the next meeting.

3. Ocean Ridge Resolution No 2005-17; Expressing Opposition to Senate Bill 1504 Known as the “Broadband Investment and Consumer Choice Act” (S.1504), Urging Congressional Representative to Refrain from any Form of Support of Co-Sponsorship of S. 1504 and to Vote in Opposition to S.1504, and Directing that this Resolution be Forwarded to the Congressional Delegation, Other Members of Congress as Deemed Appropriate, and the President of the United States.

Mayor Kaleel stated that Liebowitz & Assoc., the Town’s cable counsel, suggested that this resolution be adopted. The purpose of this resolution is to object that municipalities rights are being taken away.

Comm Bingham stated that the reason that she pulled this was that she believed that this steps all over the States rights and allows the Federal Government to regulate which should not be the case.

Comm Allison moved to approve Resolution 2005-17, seconded by Comm Bingham.

Motion carried – Yea (Kaleel, Allison, Bingham)
Nay (Hogan)

18. Hurricane Katrina

Mayor Kaleel stated that the Town should do something towards supporting the relief efforts of Katrina. He had tried to make arrangements for 3 tractor trailers to go to New Orleans w/police escort to avoid hi-jacking. Florida restricted their police officers from going across the border, so they were asked to hold off, and do it at a later time. He suggested that maybe the town do something more personal, sponsoring a family or finding them work, rather than just writing a check..

A consensus was made to gather ideas and bring up at the next month's meeting.

Comm Hogan stated she went to a League of Cities Seminar and brought back information to share with the commissioners. She requested that a shelf be made for a small library to hold information for Commissioners to review at their leisure.

Adjournment

Meeting adjourned at 7:30 PM

Attest By:

Town Clerk

Mayor Kaleel

Commissioner Bingham

Commissioner Pugh